

CHAPTER NO. 266

SENATE BILL NO. 658

By Cooper, Williams

Substituted for: House Bill No. 470

By Givens, Walker, Bone

AN ACT To amend Tennessee Code Annotated, Title 44, Chapter 8 relative to fencing and grazing.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 44-8-102, is amended by designating the current language as subsection (a), and by adding the following new subsections:

(b) In addition to subsection (a), sufficient fencing shall include: (1) fence constructed from synthetic materials commonly sold for fencing, if such materials are installed pursuant to generally acceptable standards, to confine or restrict the movement of farm animals; and (2) systems or devices based on technology generally accepted as appropriate for the confinement or restriction of farm animals.

(c) The Commissioner of Agriculture may adopt rules and regulations regarding sufficient fencing consistent with this part to provide greater specificity as to the requirements of sufficient fencing. The absence of any such rule or regulation shall not affect the validity or applicability of this section or any section of this part as such sections relate to what constitutes sufficient fencing.

SECTION 2. Tennessee Code Annotated, Title 44, Chapter 8, Part 2, is amended by adding a new, appropriately designated section as follows:

(a) In cases when the property on one side of an existing or proposed partition fence is agricultural land, and the property on the other side is non-agricultural land, the owner of the non-agricultural land may disclaim any responsibility for the erection or maintenance of a partition fence pursuant to § 44-8-202. Such disclaimer shall be in writing, executed by the non-agricultural land owner and mailed to the owner of the agricultural land by registered mail, return receipt requested, or sent by some other means pursuant to which a written verification of receipt is obtained. The disclaimer shall be effective on the date of receipt by the owner of the agricultural land.

(b) Delivery of the disclaimer as described in (a) shall have the effect of (1) relieving the owner of the non-agricultural land of any responsibility to erect or maintain a partition fence pursuant to § 44-8-202, and (2) releasing the owner of the agricultural land from any claims by the owner of the non-agricultural land arising out of the non-existence or condition of a partition fence.

(c) As used in this section, the term "agricultural land" has the same meaning as set forth in Tennessee Code Annotated, Section 67-5-1004; and the term "non-agricultural land" means land (1) that is not agricultural land, (2) that is the site of a residence and (3) on which the owner does not keep livestock.

(d)(1) If property that meets the definition of non-agricultural land at the time of delivery of a disclaimer as described in (a) subsequently ceases to qualify as non-agricultural land, then the disclaimer, and all effects of the disclaimer as described in (b) above, shall cease to be effective as of the date property ceases to be non-agricultural property.

(2) If a fence is erected by the owner of agricultural land during a period when a disclaimer as described in subsection (a) is in effect, and if the land owned by the disclaiming party subsequently ceases to be qualified as non-agricultural land, then the owner of the non-agricultural land shall reimburse the owner of the agricultural land a proportionate share of the cost of erecting the fence. If the parties cannot agree as to the amount to be paid to the owner of the agricultural land, the process described in § 44-8-204 shall be applicable.

SECTION 3. Tennessee Code Annotated, Section 44-8-113, is amended by deleting such section in its entirety.

SECTION 4. Tennessee Code Annotated, Section 44-8-114, is amended by deleting such section in its entirety.

SECTION 5. Tennessee Code Annotated, Title 44, Chapter 8, Part 5, is amended by deleting such part in its entirety.

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 17, 1999


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 26th day of May 1999


DON CONQUIST, GOVERNOR